

ENTERED

December 09, 2021

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

MARTIN CUELLAR, SHERIFF,
ET AL.,
Defendants. §
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§

ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

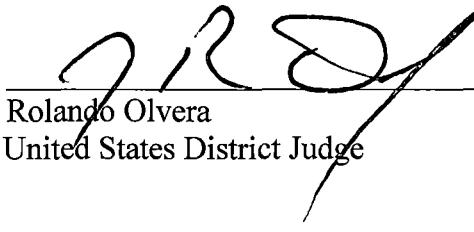
Before the Court are Plaintiff's "Complaint for Violation of Civil Rights" (Dkt No. 1), Plaintiff's "Motion and Application to Proceed *In Forma Pauperis*" ("IFP Motion") (Dkt. No. 2), and the "Magistrate Judge's Report and Recommendation" ("R&R") (Dkt. No. 5). The R&R recommends (1) denying Plaintiff's IFP Motion (Dkt. No. 2), (2) dismissing Plaintiff's Complaint (Dkt. No. 1), (3) designating the dismissal as a "strike" for purposes of 28 U.S.C. § 1915(g), (4) instructing the District Court Clerk to send notice of dismissal to the Manager of the Three Strikes List for the Southern District of Texas, (5) issuing a preclusion order instructing the Clerk of Court not to docket any future complaints from Plaintiff in this Division without prior authorization from the Court, (6) warning Plaintiff that if he seeks to file any frivolous, malicious or meritless lawsuits in the future, he may be subject to sanctions, and (7) notifying Plaintiff that, because he has accumulated more than three strikes, he will be unable to proceed *in forma pauperis* in any civil action or appeal, if he files that action or appeal while incarcerated or detained in any facility, unless he is under imminent danger of serious physical injury.

No objections were filed by either party. When no objections are filed to a magistrate judge's ruling, the district court applies the "clearly erroneous, abuse of discretion and contrary to law" standard of review. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989). Finding no clear error, abuse of discretion, or finding contrary to law, the R&R is **ADOPTED**:

1. Plaintiff's IFP Motion (Dkt. No. 2) is **DENIED**.
2. Plaintiff's Complaint (Dkt. No. 1) is **DISMISSED WITHOUT PREJUDICE**.
3. Any other pending motions are **DENIED AS MOOT**.

4. The **DISMISSAL** of Plaintiff's Complaint (Dkt. No. 1) is designated as a **STRIKE** for purposes of 28 U.S.C. § 1915(g).
5. The District Court Clerk is **ORDERED** to send notice of this dismissal to the Manager of the Three Strikes List for the Southern District of Texas.
6. The Court will **ISSUE** a **PRECLUSION ORDER** as a separate docket entry.
7. Plaintiff is hereby **WARNED** that he may be subject to sanctions if he attempts to file any frivolous, malicious, or meritless lawsuits in the future.
8. Plaintiff is hereby **NOTIFIED** that he has accumulated more than three strikes. Plaintiff will not be able to proceed in *forma pauperis* in any civil action or appeal if he files that action or appeal while incarcerated or detained in any facility unless he is under imminent danger of serious physical injury.

Signed on this 9th day of December, 2021.



Rolando Olvera
United States District Judge